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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/684,863 10/06/00 FARIES

D 1322.0024C

EXAMINER

QM02/0503

EPSTEIN EDELL SHAPIRO & FINNAN LLC  
1901 RESEARCH BOULEVARD  
SUITE 400  
ROCKVILLE MD 20850-3164

PELHAM, J

ART UNIT

PAPER NUMBER

3742

DATE MAILED:

05/03/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/684,863

Applicant(s)  
Faries et al

Examiner  
Joseph Pelham

Art Unit  
3742



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-33 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-8 is/are rejected.
- 7) ☒ Claim(s) 5 and 9-11 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

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***Claim Rejections - 35 USC § 102***

1. Claims 1, 2, 4, 7, and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6175099 to Shei et al.

Referring to Figure 3, column 4, line 46, through column 5, line 16, and column 6, lines 32-36, Shei et al discloses a U-shaped heating plate 46 with first wall 50 and second walls 52, and heat is applied at the first wall 50. Sensor-based control means are inherent in the disclosure of Shei et al.

The examiner notes that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

***Claim Rejections - 35 USC § 103***

2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shei et al in view of U.S. Patent 5653905 to McKinney.

Shei et al discloses or suggests all of the recited subject matter except restriction of the exterior heater to the bottom wall. McKinney shows that, where thermally conductive bottom and side walls are used, effective heat distribution is obtained by restriction of the exterior heater to the bottom wall. It would have been obvious to one of ordinary skill in the art to place the heater of Shei et al only on the bottom plate portion to simplify construction, and since McKinney shows such to provide uniform heat in the heated chamber.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shei et al.

While Shei et al does not explicitly disclose a thermal fuse, it would have been obvious to one of ordinary skill in the art to utilize such a fuse in the device of Shei et al, since it is well known in the art for the purpose of preventing excessive heater temperatures which may damage the device.

***Allowable Subject Matter***

4. Claims 5, and 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

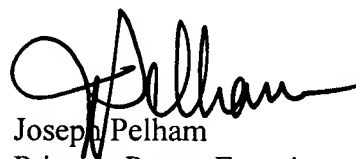
5. Claims 12-33 are allowed.

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***Conclusion***

6. The examiner notes that copies of documents listed in the Information Disclosure Statement have not been recieved, ***hence the non-patent documents have not been reviewed.***

7. Any inquiry concerning this communication should be directed to Joseph Pelham at telephone number (703) 308-1709, or fax (703) 308-7764.

A handwritten signature in black ink, appearing to read 'J. Pelham', is written over the printed name.

Joseph Pelham  
Primary Patent Examiner  
Art Unit 3742

JP  
May 2, 2001